

By:



H.B. No. 3186

A BILL TO BE ENTITLED

AN ACT

relating to the sale of property of a decedent's estate.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 331, Texas Probate Code, is amended to read as follows:

Sec. 331. ~~[COURT MUST ORDER]~~ SALES OF PROPERTY. (a) Except as hereinafter provided, no sale of any property of an estate shall be made without an order of court authorizing the same. The court may order property sold for cash or on credit, at public auction or privately, as it may consider most to the advantage of the estate, except when otherwise specially provided herein.

(b) Notwithstanding Subsection (a) of this section, during the three-year period after the date the court issues letters testamentary or letters of administration, as applicable, an independent executor, including a successor independent executor, may sell any estate property without a court order. The independent executor may sell the property for cash or on credit, at public auction or privately, and with the same authority as if the decedent had executed a will authorizing the independent executor to sell the property. The power granted by this subsection is subject to:

(1) any express limitation or qualification on the power of sale imposed by court order; and

(2) any express limitation on the power of sale as provided by Section 332 of this code.

1 (c) To the extent of a conflict between Subsection (b) of
2 this section and the express terms of a decedent's will, the terms
3 of the will prevail. To the extent of a conflict between Subsection
4 (b) of this section and any other law with respect to the powers of
5 an independent executor, the other law prevails.

6 SECTION 2. The change in law made by this Act to Section
7 331, Texas Probate Code, applies only to an independent executor or
8 independent administrator appointed on or after the effective date
9 of this Act. An independent executor or independent administrator
10 appointed before the effective date of this Act is governed by the
11 law in effect on the date the executor or administrator was
12 appointed, and the former law is continued in effect for that
13 purpose.

14 SECTION 3. This Act takes effect September 1, 2005.

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Castell

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MAR 11 2005

_____ Filed with the Chief Clerk

MAR 21 2005

_____ Read first time and referred to Committee on Judiciary

_____ Reported _____ favorably (as amended)
(as substituted)

_____ Sent to Committee on (Calendars)
(Local & Consent Calendars)

_____ Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

_____ Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Engrossed

_____ Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

_____ Received from the House

_____ Read and referred to Committee on _____

_____ Reported favorably _____

_____ Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

_____ Ordered not printed

_____ Laid before the Senate

_____ Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

_____ Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

_____ Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

_____ Read third time, _____, and passed by a (viva voce vote)
(_____ yeas, _____ nays)

_____ Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)